

FILED

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA

NOV 22 2013

ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY Ark DEPUTY

JESSE W. JAMES,

Plaintiff,

vs.

No. CIV-12-851-W

CAROLYN W. COLVIN, Acting
Commissioner of the Social Security
Administration,

Defendant.

ORDER

On August 12, 2013, the Court reversed the decision of the defendant, Carolyn W. Colvin, Acting Commissioner of the Social Security Administration ("Commissioner"), denying the Application for Supplemental Security Income filed by plaintiff Jesse W. James and remanded the matter pursuant to sentence four of Section 205(g) of the Social Security Act, 42 U.S.C. § 405(g), for further administrative proceedings. See Doc. 26. Judgment was issued that same day. See Doc. 27.

The matter now comes before the Court on James' Application for Award of Attorney's Fees filed pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412. The Commissioner has responded that she has no objection to James' argument that he is entitled to an award of legal and paralegal fees or to the amount of fees he has requested.¹ See Doc. 30.

¹As the Commissioner has indicated, the amount requested should be adjusted due to a miscalculation regarding those fees attributable to paralegal time in 2013. See Doc. 30 at 1; Doc. 28-1 at 5.

Upon review of the record,² the Court finds that the Commissioner's position in this case was not substantially justified and that James, as the prevailing party, is entitled to an award of legal and paralegal fees under the EAJA. The Court further finds that the work performed, the time expended and the resulting fees are reasonable under the circumstances and that the requested fees are properly documented.

James is therefore entitled to recover an award of fees in the amount of \$4,517.20 to compensate for attorney hours ((1.3 hours x \$184.00) + (23.0 hours x \$186.00))³ expended in this matter. James is likewise entitled to recover an award of fees in the sum of \$1,590.00 to compensate for paralegal hours (15.9 hours x \$100.00),⁴ for a total amount of fees of \$6,107.20.

Accordingly, the Court

(1) GRANTS James' Application for Award of Attorney's Fees [Doc. 28] filed on October 28, 2013;

(2) AWARDS James legal and paralegal fees pursuant to the EAJA in the amount of \$6,107.20;

²Although James has the right to file a reply, e.g., Rule 7.1(i), Rules of the United States District Court for the Western District of Oklahoma, the Court finds in the absence of any objection by the Commissioner that a reply would not be of material assistance in this matter.

³The legal work in this case was performed in 2012 and 2013. In the absence of any objection by the Commissioner, the Court finds that a reasonable hourly rate for legal work performed in Oklahoma in 2012 was \$184.00 and for legal work performed in 2013 is \$186.00.

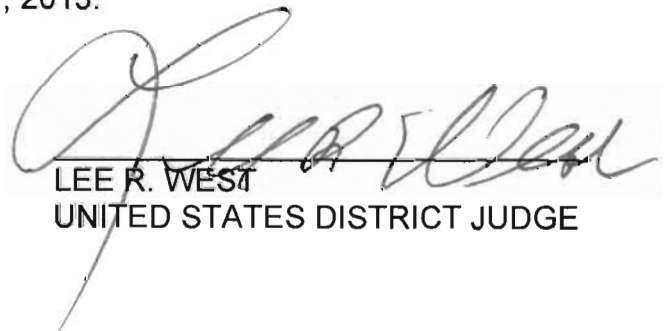
⁴Again, in the absence of any opposition by the Commissioner, the Court finds that a reasonable hourly rate for paralegals for work performed in 2012 and 2013 is \$100.00.

(3) ORDERS the Commissioner to pay that amount to James, subject to offset for debts owed to the federal government, if any, in accordance with the United States Supreme Court's decision in Astrue v. Ratliff, 560 U.S. 800 (2010);

(4) ORDERS that the check shall be made payable to James and sent to him in care of his attorneys, Troutman & Troutman, P.C., 1350 S. Boulder, Suite 410, Tulsa, OK 74119; and

(5) if additional legal fees should be subsequently authorized under title 42, section 406(b) of the United States Code and awarded to James' counsel of record, ORDERS counsel, if having received the fees awarded herein, to refund the smaller award to James pursuant to, and as required by, the decision of the United States Court of Appeals for the Tenth Circuit in Weakley v. Bowen, 803 F.2d 575 (10th Cir. 1986)(to prevent double payment of fees for same work under both statutes, smaller amount given to client).

ENTERED this 2nd day of November, 2013.



LEE R. WEST
UNITED STATES DISTRICT JUDGE